



HM Government

United Kingdom Labour Market Enforcement Strategy 2018/19

Executive Summary

Director of Labour Market Enforcement

David Metcalf

May 2018



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of the Immigration Act 2016

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Executive summary

Profound changes have occurred in the labour market in the last four decades. The employment relationship has fissured and the average workplace size has fallen. Trade union membership, the coverage of collective bargaining, and labour's share of our national income have all declined markedly.

Hand-in-hand with such changes came the realisation that labour market laws and regulations are not being fully enforced.

I was proud to be appointed the first Director of Labour Market Enforcement in January 2017. My remit, and this first full Strategy, covers three of the four main state enforcement bodies:

- **HMRC NMW/NLW** which enforces the national living/minimum wage (NMW/NLW);
- the **Gangmasters and Labour Abuse Authority (GLAA)** which licenses gangmasters in horticulture and food processing and was recently given powers under the Police and Criminal Evidence Act 1984 (PACE) to enforce certain labour market offences; and
- the **Employment Agency Standards Inspectorate (EAS)** which monitors employment agencies.

Further information on the focus, size and scope of these three bodies is given in Table 1. The fourth body, not in my remit, is the Health and Safety Executive (HSE).

Beyond state enforcement described above, workers must seek redress for employment law violations via an Employment Tribunal.

Table 1: Summary of the enforcement bodies

Enforcement body (Responsible department)	Funding (£m)	2017/18 FTE staff	Focus, scope and key sectors covered	Geographic locations covered	2016/17 cases
HMRC NMW/NLW (BEIS)	2017/18: 25.3 2016/17: 20	399+	Covers all sectors. All employers and workers in scope, covering around 2m workers in low-paid jobs	UK	2,674 closed, 2,775 opened
GLAA (Home Office)	2017/18: 7.1 2016/17: 4.8	104	Licenses labour providers in agriculture, horticulture, shellfish gathering, food processing and packaging. Over 1,000 licensed labour providers, supplying around 0.5m workers. Modern Slavery: estimated 10-13,000 victims	England, Scotland, Wales and by order in Northern Ireland	247 licensing cases
EAS (BEIS)	2017/18: 0.75* 2016/17: 0.5	12	Covers employment agencies 18,000 Employment Agencies, covering 1.1m workers	England, Wales, Scotland	142 targeted inspections; 750 complaints cleared, 828 complaints received

Source: NMW/NLW: BEIS (2017b), GLAA: management information, EAS: EAS (2017).

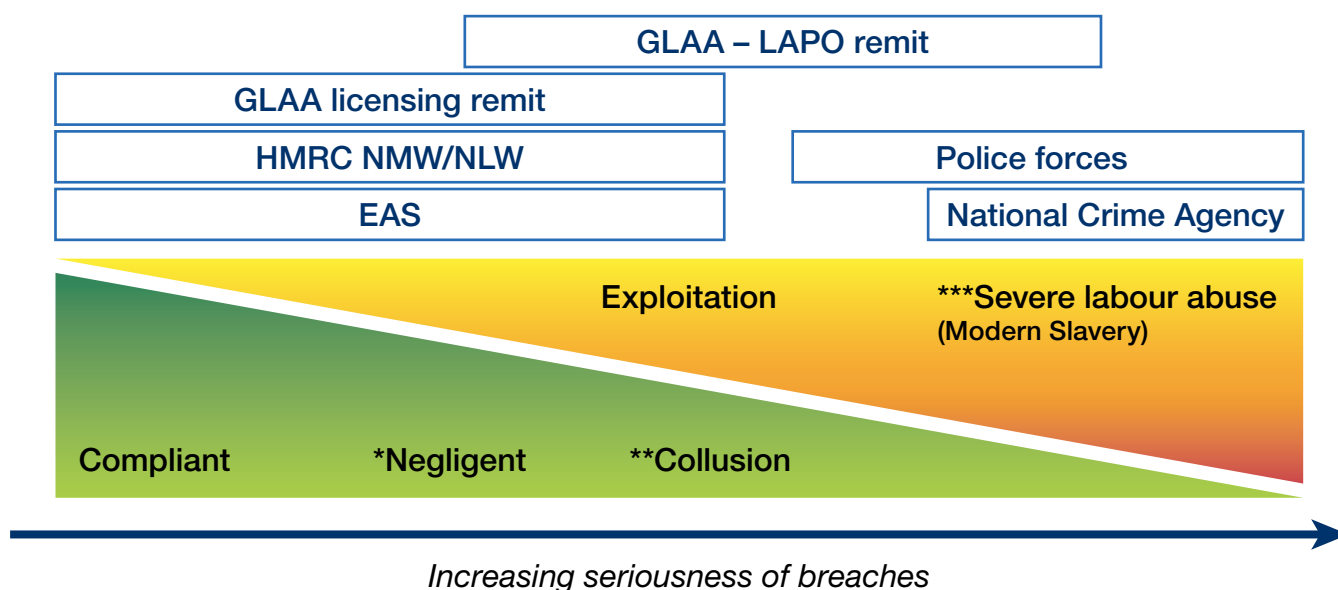
*Includes one-off amount of £0.25m for IT.

The spectrum of labour non-compliance

My remit covers the whole spectrum of labour market non-compliance, ranging from a basic lack of understanding and application of labour rights and regulations through to criminal exploitation on a large scale which goes beyond worker exploitation.

The three labour enforcement bodies together operate right across this spectrum, from low level to the most severe offences, albeit with varying focus, powers and penalties. HMRC NMW and EAS mainly enforce at the lower harm end of this spectrum, while GLAA has a broader role covering both more serious violations of labour exploitation within modern slavery (via its new PACE powers) and its lower harm gangmaster licensing activity (Figure 1).

Figure 1: The Compliance Spectrum



*Low-paid retail staff have the cost of their uniforms unlawfully deducted from their pay, bringing them below the national minimum wage.

**As part of an arrangement with the employer, warehouse workers accept pay below the national minimum wage, but claim to work fewer hours than they actually do in order to still claim state welfare benefits.

***Workers receive very low rates of pay and work in poor conditions, but are too afraid to leave due to lack of alternative or credible threats of violence.

Strategy

This is my first full Labour Market Enforcement Strategy, following on from the Introductory Strategy published in July 2017. I undertook a public consultation in summer/autumn 2017 to help inform the first full Strategy.

I summarise here the key findings both from that consultation and other work carried out by my Office over the past year, and highlight the Strategy's key recommendations (all of the recommendations are listed in full at the end of this document).

The approach that I have taken builds on the **strategic enforcement framework**¹ that has influenced enforcement policy in countries such as the USA, Canada and Australia in recent years. This framework is based on four principles:

- **Prioritisation:** action from enforcement bodies needs to be informed by an understanding of the probable severity of problems across sectors, both in terms of frequency and level of harm;
- **Deterrence:** the threat and perception of the likelihood of investigation and enforcement must proactively spur employers into compliance;
- **Sustainability:** enforcement must have a long term effect on employer behaviour; and
- **System-wide effects:** each layer of an industry must be affected by enforcement, sometimes using sector-specific levers.

¹ Developed by Professor David Weil, a former head of labour enforcement in the US.

Scale and nature of non-compliance (Section 1)

Although a number of sources of information exist to assess the scale and nature of labour market non-compliance (e.g. Office for National Statistics (ONS); management information from the enforcement bodies; academic research; intelligence), they all have severe limitations. Worker complaints on their own are likely to skew the true non-compliance picture as barriers such as a lack of awareness of employment rights and the fear of reprisal by their employers inevitably act to inhibit full reporting. I will be looking to improve this situation in the coming year through a programme of research as part of further development of the Information Hub within my Office.

Based on the data and information that does exist:

- Using official ONS data, it is **estimated that 342,000 jobs were paid below the National Living Wage in 2017**. This is equivalent to 1.2 per cent of all employee jobs. According to the Low Pay Commission, around a fifth of all low-paid jobs for those aged 25+ are paid below the NLW. In addition, there is evidence that one in five apprentices is not being paid the correct minimum wage.
- Viewed from a different angle, recent research suggests that **total unpaid wages amounted to £3.1 billion in 2016**. Over half of this ‘wage theft’ (to use the US term) is in fact unpaid holiday pay. By my estimate, the 6.6 million workers in the bottom 30 per cent of the wage distribution would, therefore, each incur an annual pay penalty of £470.
- Estimates we were given by one stakeholder – though supported anecdotally by others in the sector – suggest that **£4.5 billion is misappropriated from agency workers annually**. Again, over half of this is unpaid holiday pay. Overall, the loss to workers and HMRC is equivalent to 15 per cent of agency industry turnover.
- The extreme end of labour market exploitation is modern slavery. In 2014, **the Home Office estimated there to be between 10,000 and 13,000 potential victims of modern slavery in the UK** (covering sexual exploitation and domestic servitude in addition to labour exploitation). Last year, the NCA suggested that the numbers might be even higher. Data captured by the National Referral Mechanism (NRM) also show an increase in the volume of identified victims over the last year. Labour exploitation alone accounts for almost half of the NRM figures and labour exploitation referrals rose by 30 per cent over the year to Q3 2017.

Compliance approach to enforcement (Section 2)

Within enforcement there are two broad approaches: **compliance** and **deterrence**. The most effective enforcement approach will be some mix of the two.

The **compliance approach** is premised on the idea that violations of employment regulations are the result of employer ignorance and incompetence. I recognise that a large part of non-compliance can be tackled in this way. I identify three broad areas where the compliance approach could be used more effectively:

(i) Intent and recidivism

The question of intentionality and repeated non-compliance was raised with us during the consultation, in particular in relation to NMW/NLW enforcement. It was argued that many breaches are in fact accidental and made in error, an argument with which I have a degree of sympathy. Therefore, where there is lack of intent, compliance theory would suggest that one effective enforcement approach is to concentrate on providing information, education and support to help prevent these mistakes. Stakeholders reported back to us however that this was not their experience with NMW/NLW enforcement.

I accept that HMRC NMW/NLW does triage and risk assess cases and offers self-correction for co-operative employers. However, I do believe that the enforcement bodies can generally improve their support and education of employers to reduce ‘accidental’ non-compliance. For HMRC and BEIS, this will include placing greater emphasis on developing a supportive and compliance-based approach to enforcement by further developing their triage and risk assessment processes, improving employer guidance and adopting a more supportive approach to employers seeking help and advice.

(ii) Supporting employers to be compliant

Our consultation highlighted a lack of clarity on guidance, particularly around technical aspects of NMW/NLW. In the next year, I would expect to see further collaborative work between HMRC, BEIS, trade unions and sector specific groups to improve areas of guidance that are ambiguous or difficult to apply in order to facilitate compliance.

Employers we spoke with raised concerns around difficulties they have experienced in getting definitive help and answers from HMRC NMW/NLW when they have approached them. This was often in contrast to their experience of working with other parts of HMRC. I wish therefore to see a more supportive and educative approach introduced into their NMW/NLW interactions with employers over the course of this year.

For EAS, their lack of public profile is a significant barrier to raising awareness of regulations and requirements for employment agencies.

(iii) Promoting worker rights, supporting awareness and access to enforcement

Employment rights are now predominantly enforced on an individual rather than a collective basis, following the decline in union membership and collective bargaining coverage. Yet the evidence suggests that awareness levels amongst workers and employers of rights, responsibilities and public enforcement are relatively low. The lack of knowledge and confidence to report issues, and consequently the vulnerability of workers, is not surprising given the complexity of different rights and employment statuses, combined with a fragmented enforcement landscape.

To improve this I recommend:

- **Better information on rights**, including the right to a written statement in week one for all workers; improving provision of and access to information on employment rights via a dedicated web portal linking all related enforcement bodies; and using targeted social media campaigns.
- **The right to a payslip for all workers**. It should also be mandatory to include total hours worked and hourly rate of pay for hourly paid workers.
- **Improving complaints channels**: including clearer web presence for the three bodies, and indeed Acas, to help steer workers in the right direction when seeking redress.

Deterrence approach to enforcement (section 3)

Deterrence theory emphasises deliberate violations and the Strategy considers various approaches. In the context of the spectrum of labour market compliance (Figure 1), I believe the deterrence approach may be more appropriate for recidivist employers and for cases of more serious labour exploitation.

I have concerns that both the **chances of being investigated** by enforcement officers and the **scale of financial penalties** for those found to be non-compliant are too low. Not only does this provide little incentive for employers to comply, but some employers are actively discounting these costs as part of their wider business model.

Government expenditure on the three enforcement bodies in 2017/18 was just over £33 million, up from around £25 million a year earlier. Both HMRC NMW and GLAA have seen a significant boost to their resources (to reflect their expanded remit). Until we are able to evaluate the impact of this additional resource, I do not recommend any increase in their funding in this Strategy. However, it is clear that resources for the EAS (nine inspectors covering an estimated 18,000 employment agencies) are spread too thinly. I do recommend that Government increases this.

I favour a **significant increase in the size of civil penalties** for the non-compliant to bolster the deterrent effect. Employer penalties for NMW non-compliance are only twice the identified wage arrears for the worker: around £110 per worker on average in 2016/17. Moreover, employer fines following NMW prosecutions are generally below £5,000. Beyond recommending a review of the NMW penalty multiplier, I do not propose what the potential increase in civil penalties should be. Though, I do note with interest the recent changes to the Sentencing Council guidelines for the Health and Safety Executive, linking financial penalties to the company's annual turnover, which means that large organisations can be fined in excess of £10 million for severe offences. In addition, I also recommend the introduction of fees for intervention (again similar to the HSE model), as well as the recycling of (higher) penalty income back into the enforcement system to help fund more prosecutions (see below).

Greater use is being made of **reputational penalties** – specifically, the naming and shaming scheme for minimum wage infringements. BEIS now conducts naming rounds approximately every three months and, based on our own engagement with employers, it is clear that the fear factor associated with public naming has a powerful effect. That said, I would like to see further evaluation of the scheme carried out, with potentially a shift away from a focus on accidental breaches towards more serious violations.

Currently, insufficient use is being made of **prosecutions**. There have been only 14 minimum wage prosecutions since 1999. I recognise that these can be complex and costly but the recycling of penalty income, as proposed above, could help resource this. I also believe the deterrence effect could be enhanced by greater publicity of these prosecutions.

I welcome the new regime of **labour market enforcement undertakings and orders (LMEU/O)** introduced by the Immigration Act 2016. These will increase the enforcement tools available to the three bodies, with breaches punishable by a custodial sentence of up to two years. I appreciate that it is still early days for LMEU/Os, but strongly encourage the proposed pilot scheme in Nottingham to commence as soon as is practicable.

Also introduced as a result of the Immigration Act were specialist **Labour Abuse Prevention Officers (LAPOs)** within the GLAA who are able to use powers under the Police and Criminal Evidence Act 1984. LAPOs only came into operation at the end of April 2017 and have increased GLAA presence in the unlicensed sectors. I am keen to see LAPOs used to their full effect, and the Home Office and the GLAA should explore and clarify the role and powers of LAPOs within the overarching framework of labour enforcement.

Much current enforcement activity remains complaint-driven, though increasingly there is a shift to more intelligence-led enforcement. I encourage the bodies to continue with this **shift to more proactive enforcement**.

The establishment of the Information Hub in my Office this year has helped the bodies make great strides in improving intelligence sharing and undertaking joint operations. There are significant benefits to be gained from further **joint working** between the three bodies and indeed other, relevant, state enforcement bodies. By pooling and analysing our labour market intelligence, my Office has produced a strategic assessment highlighting the **sectors identified as key risks of labour exploitation**. These include: hand car washes, agriculture, care, nail bars, shellfish

gathering, hospitality, construction and factories/ warehousing. This work has been integral to identifying target sectors either for action as part of this Strategy's recommendations or for greater focus during my next Strategy for 2019/20.

Improving labour market enforcement (Section 4)

Supply chains

One of the most prominent manifestations of the fissured workplace over recent decades has been the **growth of supply chains**. Often this is in the context of global business², but increasingly there are examples where there is a return to on-shoring in the UK to benefit from greater within-country proximity throughout supply chains (e.g. fast fashion in the garment industry). However, the driver for this business model remains the same – that is, cost reduction – and this, in turn, risks compromising labour standards.

The Strategy therefore considers three types of intervention to improve compliance in supply chains.

First, a key element of strategic enforcement is the recognition of the power of leverage within the supply chain. Improvements in compliance throughout the supply chain can be achieved by linking the actions of suppliers down the supply chain to the brand name at the top.

Some NGOs and unions advocated joint and several liability, a legal approach used in a number of other countries. This is an adversarial approach to achieving compliance. Instead, I recommend a more cooperative approach involving **joint responsibility**. Initially, I would envisage non-compliance identified in the supply chain to be addressed privately between the supplier and the brand name. Failure to do so within a given timeframe would then result in the usual sanctions and naming for the supplier, but the end user would also be named. It should be remembered that there will be further iterations of the enforcement strategy and, should the cooperative approach fail, I would be minded to consider the adversarial approach.

Second, drawing on international precedent, I recommend **a power to embargo “hot” goods** supplied by a non-compliant subcontractor. This would have a significant disruptive and costly effect for business models where speed of turnaround and supply are critical to responding to consumer demand.

Third, the public sector itself can play a leading role in helping to achieve greater compliance through its commissioning of public procurement contracts (amounting to over £250 billion a year overall). I would therefore like to see **public procurement contract templates amended to include an emphasis on employment law obligations**.

Licensing

My Strategy considers licensing and other models of regulation (registration, certification and accreditation). As previously discussed, the GLAA already licenses labour providers in the agriculture and food processing sectors.

During the consultation there were multiple calls to extend licensing to, for example, employment agencies, the garment trade, construction employers, and firms in the security industry. These were not normally accompanied by evidence on either the costs or benefits of such licensing, or its practicability. Rather, there was typically a simple assertion that licensing would improve matters. I am not hostile to licensing – **I recommend licensing pilots for nail bars and car washes on a limited geographical basis** in the coming year. I shall look forward in 2018 to meeting stakeholders keen on extending licensing in particular sectors to provide stronger evidence of its potential benefits and practicalities of implementation.

² My remit as Director of Labour Market Enforcement extends only to the UK, not internationally.

Continual assessment and improvement

It is important to evaluate which policy interventions work and to understand the overall impact of the three enforcement bodies on tackling non-compliance.

While all three bodies report on outputs of their activities (e.g. number of cases, amount of money recovered, etc.), this risks distorting organisational behaviour and priorities. I would therefore like to see **greater emphasis on measuring outcomes** (i.e. impact on the level of non-compliance overall). My recommendations here include the three bodies adopting a more evaluative approach to their own processes and systems, and an **independent evaluation to investigate the overall impact of the three bodies** on tackling labour market non-compliance.

Enforcement gaps (Section 5)

During our consultation it became clear that there are some other serious gaps in labour market enforcement and I also make recommendations here:

There is effectively **no state agency enforcing holiday pay regulations**. The evidence (discussed above) suggests that the unpaid amount is as large as non-compliance with the minimum wage. I recommend HMRC, or another state body, be given responsibility for regulating holiday pay.

Furthermore, HMRC and EAS must try to ensure **umbrella companies and payroll intermediaries** are abiding by the regulations, and **EAS should monitor the Swedish derogation**.

The absence of, or failure to keep adequate, records is often a serious impediment to enforcement. A recent change in the policy guidance now encourages HMRC to prosecute this as a standalone offence. I urge HMRC to pursue this with vigour.

Some of the issues raised above – for instance regarding enforcement of holiday pay and the Swedish derogation – were also highlighted in Matthew Taylor’s Review of Modern Working Practices in 2017. I welcome the recent Government response to that review and will be very interested in the outcome from the follow-up consultations.

The Director’s Work Plan for 2018/19 (Section 6)

Looking ahead to my Strategy for 2019/20, I set out here the approach I intend to take and the wider work that the Director’s Office will be focusing on.

Implementing the Strategy for 2018/19: naturally, I am keen that those elements of this Strategy that are accepted by Government are implemented in a timely fashion. I believe that urgent action is needed to address problems and gaps in labour market enforcement. Some will inevitably require legislation – and hence will take longer to implement – but others ought to be simpler to take forward. I therefore intend to be proactive in working with the relevant Government departments and the three enforcement bodies in an effort to take these forward, such that I can report on progress by the time of my next Strategy in 2019.

Consultation to inform the Labour Market Enforcement Strategy 2019/20:


I will be undertaking another public consultation in summer/autumn of 2018 to inform my next Strategy (due in spring 2019). The precise areas I will focus on have yet to be finalised and I will continue to engage with stakeholders in the coming months to help develop this. What I am keen to explore in greater depth, however, is sector specific enforcement issues.

Research and further development of the Information Hub:

Developing the Information Hub will also be a priority for me. First, I will need to ensure the necessary legal gateways are in place to facilitate the receipt and sharing of information and intelligence amongst all interested bodies, including industry and third parties. Second, through the Strategic Co-ordination Group (SCG), I want to be able to evaluate how well the strategic priorities – as well as opportunities for intelligence sharing and joint working – are being exploited by the bodies, and to build and develop links with other partners with a shared interest in labour market enforcement. Finally, I will be taking forward work to develop the research capacity of the Hub, to better evidence the scale and nature of non-compliance in the labour market.

Thank you

I wish to pay tribute to public officials and stakeholders for their gracious, constructive engagement. And to my small, high quality secretariat for their analytical, policy, writing and administrative skills; Tracey Affat, Emily Eisenstein, Michael Flynn, Tim Harrison, Bethan Hunt, Rashmi Panigrahi, Kelly Scott and Christine Stone.

A handwritten signature in black ink that reads "David Metcalf". The signature is written in a cursive, slightly slanted style.

Professor Sir David Metcalf CBE.

This Strategy was first submitted to the Home Secretary and the Secretary of State for Business, Energy and Industrial Strategy on 26 February 2018.

Summary of recommendations

Compliance theory and approach

Report section 2.3 Supporting employers to be compliant

1. BEIS/HMRC should review the guidance around NMW in collaboration with stakeholders to identify and improve problem areas such as pay averaging and salary sacrifice.
2. HMRC NMW/NLW team should develop a more supportive approach when companies ask for advice in order to be compliant.

Report section 2.4 Promoting worker rights, supporting awareness and access to enforcement

Information on rights:

3. A statement of rights should be made mandatory for all workers from within week one of employment commencing. The Government should develop a template for the written statement of employment to ensure transparency in information provided, and to reduce the burden on business.
4. Clear and accessible information on employment rights should be provided to workers through a number of channels, including via:
 - a. Use of targeted social media campaigns;
 - b. Development of a web portal linking all enforcement agencies;
 - c. Workplace notices detailing rights and how to enforce them should be mandatory similar to the Health and Safety notices;
 - d. Payslips, and payslip software and apps, should include NMW/NLW rates guidance, information on the enforcement agencies and details of how to report a breach;
 - e. The education system should use opportunities and existing resources to inform young people of their rights as they prepare to enter employment; and
 - f. Information should be included with National Insurance notification letters and other government communication.

Payslips:

5. The right to a payslip should be extended to all workers.
6. For hourly paid workers, there should be mandatory inclusion of total hours worked and hourly rate of pay on payslips.
7. In the longer term hours and hourly earnings should be captured in Real Time Information data returns to HMRC.

Improving complaints channels:

8. Simplify the entry channel to seek help on employment rights and how to seek redress. There needs to be greater clarity on the internet about where to go for help and how to complain. In the next year:
 - a. The three agencies should improve their websites to make clearer what complaints to direct to them and how, and who to direct other types of complaints to. These should link with the web-portal recommended above;
 - b. EAS should raise its profile and have an easy to find webpage on Gov.UK with contact details for people to make complaints; and
 - c. Acas should review their communications and marketing promoting their service, and ensure it is accessible to workers.
9. Acas should build on the links with the three bodies to ensure that staff training, referral processes and data sharing are promoting their service to maximise access to workers.

Deterrence approaches: Investigations and penalties**Report section 3.1 Risk of inspection**

10. I recommend an increase in resources for EAS, both to promote their ability to enforce current regulations and due to my proposal to expand its remit. I do not recommend an increase for GLAA or HMRC NMW/NLW as these bodies have recently had an increase in resources. Over the coming year I will be monitoring the efficiency of how these resources are used.

Report section 3.2 Size of financial penalty for employers

11. BEIS and EAS should investigate the potential for EAS being given the powers to impose civil penalties on non-compliant employment agencies as an alternative to prosecution.
12. I recommend that, where appropriate, employers found to be non-compliant should be charged a fee for intervention to allow the enforcement bodies to recover some of their enforcement costs.
13. I recommend the use and imposition of much more severe financial penalties to act as a greater deterrent against non-compliance. The NMW penalty multiplier should be reviewed and increased again to a level that would ensure that there is an incentive to comply with the legislation.
14. I recommend that revenue from higher penalties should be recycled into the enforcement system as additional resource.

Report section 3.3 Reputational penalties

15. I recommend evaluation of the BEIS Naming Scheme to assess its impact.
16. I recommend that further information is provided within the Naming Scheme to highlight the average arrears per worker, that case studies are provided to increase both the deterrence and compliance effect, and that opportunities are taken to engage with specific sectors to educate other employers on potential areas of non-compliance.

Report section 3.5 Undertakings and orders

17. There should be greater use of – and publicity for – prosecutions, and undertakings and orders, to help increase the deterrent effect.
18. The Home Office and GLAA should work to explore and clarify the role and powers of Labour Abuse Prevention Officers (LAPOs), within the overarching framework of labour market enforcement.

Report section 3.6 Prohibitions

19. The three enforcement bodies should work with Insolvency Service to crack down on phoenixing by directors seeking to avoid labour market penalties.

Report section 3.7 Prioritisation of inspections: proactive vs reactive

20. The three bodies should continue to shift to more proactive enforcement methods. This will necessitate a more efficient way of responding reactively to complaints.

Report section 3.8 Use of intelligence and joint working

21. The three enforcement bodies should continue to work positively with the Information Hub and Strategic Coordination Group (SCG) to build on the good progress made over the past 12 months by:
 - a. refining the systems and processes for intelligence-sharing, exploring all possible legal gateways and identifying any potential barriers, including developing intelligence requirements to ensure the appropriate information is being collected;
 - b. learning from shared experience to ascertain best practice for joint working, ensuring the best enforcement tools are applied to each case;
 - c. continuing to build relationships with other enforcement agencies to promote more joint working where different powers, additional resources, or enforcement tools can be of benefit;
 - d. looking to build partnerships with business, trade unions, trade bodies, and other industry experts so that these partners may feed in intelligence to the bodies in such a way that is actionable; and
 - e. operating a feedback loop with each other, with those that submit intelligence to them, and to their respective complainants.
22. Different forms of partnership working should be piloted and evaluated, primarily through the support of:
 - a. Newham's proposal to target NMW/NLW (testing joint working between HMRC and local authority); and
 - b. Leicester's proposal to target the garment trade through focused, highly visible joint enforcement (testing partnerships with local agencies and businesses).

Improving labour market enforcement

Report section 4.1 Accountability and leverage through the supply chain

23. To help ensure compliance throughout supply chains, joint responsibility measures should be introduced where the brand name (at the top of the chain) bears joint responsibility for any non-compliance found further down its own supply chain. Where non-compliance is found, follow-up action by enforcement agencies in conjunction with the brand name and supplier would be undertaken in private to provide an opportunity to correct the infringements within a given timeframe. Failure to correct could result in public naming of both the brand name and supplier.
24. Provisions should also be made to enable the temporary embargo of 'hot goods' to disrupt supply chain activity where non-compliance is found.

Public procurement

25. An assessment should be made of the effectiveness of the Welsh Government's new Code of Practice, to inform further development and to determine whether national roll-out would be beneficial.
26. Procurement templates should be amended to explicitly compel compliance with labour market regulations in public contracts.

Report section 4.2 Licensing and other models of regulation

27. The 2012 GLAA licensing standards should be reviewed to ensure they reflect current worker rights and employer obligations.
28. Two pilot schemes should be run and evaluated to test the feasibility and impact of GLAA licensing of businesses in different sectors. These should be done on a geographically limited basis and cover:
 - a. Hand car washes; and
 - b. Nail bars.

Report section 4.3 Continual assessment and improvement

29. The three bodies should further develop and embed an evaluative approach to their own processes and systems, making best use of data and information to assess their performance and impact, ensuring they align with strategic enforcement principles, especially in terms of increasing the deterrence effect.
30. An independent evaluation should be undertaken, by independent academics or consultants, to investigate the overall impact of the three bodies on tackling labour market non-compliance.

Current enforcement gaps

Report section 5.1 Holiday pay

31. HMRC, or another appropriate state body, should be provided with the powers and remit to take responsibility for the enforcement of holiday pay for all workers, including mechanisms to recover holiday pay arrears.
32. In the interim, EAS and GLAA should make use of their existing enforcement frameworks to investigate holiday pay as a matter of priority.

Report section 5.2 Intermediaries and umbrella companies

33. Current EAS powers should be expanded to include intermediaries to enable them to follow up on cases of worker exploitation as they would for employment agencies. Their resources should be increased in line with the additional requirements to do this.
34. The GLAA, EAS and HMRC NMW/NLW team should work closely with the other relevant HMRC tax enforcement teams to share information of non-compliant intermediaries that they identify through their enforcement work. The relevant teams in HMRC should take effective action against such organisations, ensuring that successes are widely publicised to demonstrate that the enforcement environment is changing.
35. EAS and HMRC should work together to develop the options for enforcing regulations around intermediaries, assessing the likely impact, costs and benefits of each.

Report section 5.3 Swedish Derogation

36. The Swedish Derogation should either be properly enforced or abolished. EAS remit should be extended to cover the enforcement of compliance with the Agency Worker Regulations 2010 (including the Swedish Derogation), with the additional necessary resource to do this.

Report section 5.4 Lack of documentation

37. HMRC should take advantage of the recent change in policy guidance and pursue more prosecutions for standalone non-record keeping offences.

